THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.35072 of 1997

Dated:04.07.2006

Between:

Penuballi Gram Panchayat.

…Petitioner

and

The District Collector, Nellore, and others.

…Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.35072 of 1997

ORDER:

Penuballi Gram Panchayat is the petitioner. The writ petition is filed seeking a writ of mandamus declaring the inaction of the respondents in removing the encroachment made by the fifth respondent at the Gram Panchayat site earmarked for construction of a bus shelter. The petitioner also seeks a direction to the District Collector to take steps to remove the encroachment of the fifth respondent.

It is the case of the petitioner that the District Collector sanctioned the construction of bus shelter by proceedings dated 09.06.1997. Thereafter, the Gram Panchayat passed a resolution earmarking the northern side of Jonnavada-Bhuchireddipalem Road in the Gram Panchayat area for construction of the bus shelter sanctioned by the District Collector. The Mandal Parishad Development Officer also issued proceedings on 24.06.1997 authorising the Sarpanch, who is the Convener of the Works Committee, to take up the work. Accordingly, the work of construction of the bus shelter was taken up, and by 07.07.1997 the earth work foundation for pillars was completed and the same was verified by the Assistant Executive Engineer. At that stage it was alleged that the fifth respondent highhandedly encroached upon the land and raised a hut after removing the foundation. The efforts of the Panchayat to remove the encroachment of the fifth respondent proved futile, and therefore, the present writ petition is filed.

A counter affidavit is filed by the District Collector virtually admitting the case of the petitioner. It is also stated that the revenue and the police administration would give necessary assistance to the Gram Panchayat in the efforts to remove the encroachment. The fifth respondent has not filed any counter affidavit.

After hearing the learned Counsel for the petitioner, the learned Assistant Government Pleader for Revenue (General) and the learned

Counsel for the fifth respondent, this Court is convinced that the encroachment made by the fifth respondent has to be removed by the Gram Panchayat alone. Be it noted that under Section 98 of the Andhra Pradesh Panchayat Raj Act, 1994, powers vest with the Gram Panchayat to remove any encroachment by any person of the Gram Panchayat. Jonnavada-Bhuchireddipalem Road is the Gram Panchayat road and no construction is permissible on the road margins except structures like bus shelter.

Therefore, the petitioner may initiate action for removal of the encroachment and if any assistance is required, the District Collector shall provide necessary police help for removing the encroachment.

The Writ Petition is accordingly allowed. No costs.

_____

(V.V.S.RAO, J)

04.07.2006
vs